

By Senator Silver

38-891A-00

1                                   A bill to be entitled  
 2           An act relating to port area improvement;  
 3           creating the "Port Area Improvement Authority  
 4           Act"; providing legislative findings and  
 5           intent; defining terms; providing for the  
 6           creation of port area improvement authorities  
 7           in highly populated counties with major cruise  
 8           ship ports; providing for the management of  
 9           authorities; providing for the powers of an  
 10          authority; providing authority to levy a cruise  
 11          passenger surcharge subject to a referendum;  
 12          providing for cruise passenger surcharge  
 13          collection; providing for criminal penalties;  
 14          authorizing the use of bonds to fund projects;  
 15          providing for a tax exemption on bonds;  
 16          providing for limitations on damages; providing  
 17          for dissolution of an authority; providing  
 18          severability; providing for liberal  
 19          construction; providing an effective date.

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 21 Be It Enacted by the Legislature of the State of Florida:

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 23           Section 1. Short title.--This act may be cited as the  
 24 "Port Area Improvement Authority Act."

25           Section 2. Legislative findings; intent.--  
 26           (1) The Legislature finds that certain highly  
 27 populated counties in the state are substantially affected by  
 28 the cruise industry and other tourism-related activities and  
 29 have the need for enhancement of areas surrounding major  
 30 cruise ports through the improvement of existing facilities  
 31 and the development of tourism-oriented facilities and other

1 attractions, including professional sports facilities, and  
2 other related amenities and infrastructure. The Legislature  
3 also finds that these projects serve a paramount public  
4 purpose and that there is a need to provide a comprehensive  
5 method and funding sources for providing for the development  
6 and operation of tourism-oriented facilities and other  
7 attractions, including professional sports facilities, and  
8 other related amenities and infrastructure.

9 (2) It is declared to be the intent of the Legislature  
10 that every passenger embarking on a multi-day cruise  
11 initiating its voyage from a major cruise ship port in an  
12 eligible county is exercising a taxable privilege under this  
13 act.

14 (3) It is declared to be the intent of the Legislature  
15 to prescribe a uniform procedure for establishing independent  
16 authorities for the purpose of planning, financing,  
17 constructing, renovating, developing, operating, and  
18 maintaining tourism-oriented facilities and other attractions,  
19 including professional sports facilities, and other related  
20 amenities and infrastructure within highly populated counties  
21 of the state having major cruise ship ports and to provide for  
22 the levy and collection of a cruise passenger surcharge within  
23 those counties.

24 Section 3. Definitions.--As used in this act, the  
25 term:

26 (1) "Authority" means an authority created under this  
27 act.

28 (2) "Board" or "board of supervisors" means the  
29 governing body of an authority.

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1           (3) "Bond" means any general obligation bond, revenue  
2 bond, refunding bond, note, or other debt obligation  
3 authorized under this act.

4           (4) "Cruise passenger surcharge" or "surcharge" means  
5 a surcharge approved at a referendum and imposed by an  
6 authority on each person embarking on a multi-day cruise  
7 initiating its voyage from a major cruise ship port within an  
8 eligible county of this state. The surcharge may not exceed \$4  
9 for each day of the cruise, as determined in the manner  
10 established by this act.

11           (5) "Department" means the Department of Revenue.

12           (6) "Eligible county" means any county within the  
13 state which simultaneously satisfies the following criteria:

14           (a) A major cruise ship port exists in the county, and

15           (b) The county has a population of not less than 1.5  
16 million according to the most recent annual publication of  
17 County Population Estimates of the U.S. Bureau of the Census.  
18 Once a governing body has been appointed for an authority in  
19 an eligible county, that county is considered an eligible  
20 county for all purposes of this act, notwithstanding  
21 subsequent reductions in population or cruise passenger  
22 traffic.

23           (7) "Major cruise ship port" means a deep-water port  
24 owned by a unit of local government from which vessels enter  
25 or depart and which, at the time of establishment of an  
26 authority in the county in which the port is located, had  
27 aggregate multi-day cruise passenger traffic of not less than  
28 1.8 million persons per year during the preceding consecutive  
29 12 months, according to the official records of the unit of  
30 local government operating the port. For purposes of this  
31 definition, each embarkation, disembarkation, and in-transit

1 movement must be separately counted as passenger traffic so  
2 that, for example, a single passenger embarking and  
3 disembarking at the same port counts as passenger traffic of  
4 two.

5 (8) "Multi-day cruise" means a voyage upon a  
6 commercial passenger vessel that extends over 1 or more  
7 nights.

8 (9) "Professional sports facility" means a ballpark,  
9 stadium, arena, coliseum, or similar facility intended for use  
10 by a professional sports franchise that exists within the  
11 National League or the American League of Major League  
12 Baseball, the National Basketball Association, the National  
13 Football League, or the National Hockey League.

14 (10) "Project" means tourism-oriented facilities,  
15 attractions, and other improvements authorized by this act,  
16 including professional sports facilities, related amenities  
17 and infrastructure, and systems, facilities, and services  
18 determined by an authority to be beneficial to the  
19 development, ownership, and operation of any of the foregoing,  
20 including the acquisition of land and any interest therein.

21 (11) "Refunding bonds" means bonds issued to retire or  
22 refinance outstanding bonds of an authority and the interest  
23 and redemption premium thereon.

24 (12) "Revenue bonds" means obligations of an authority  
25 which are payable from revenues or other funds derived from  
26 sources other than ad valorem taxes on real or tangible  
27 personal property.

28 Section 4. Creation of a port area improvement  
29 authority; charter.--

30 (1) A port area improvement authority is established  
31 within each eligible county with all of the powers, authority,

1 duties, and limitations set forth in this act. This act  
2 constitutes the charter of each such authority. Each authority  
3 shall be designated " . . . . County Port Area Improvement  
4 Trust," with the blank space being completed by inserting the  
5 name of the eligible county in which the authority is located.

6 (2) Each authority is an independent special district  
7 within the meaning of chapter 189, Florida Statutes, the  
8 boundaries and jurisdiction of which are coterminous with the  
9 boundaries of the applicable eligible county.

10 Section 5. Board of supervisors.--

11 (1) A board of supervisors shall govern each  
12 authority.

13 (2) The board shall be composed of seven members  
14 appointed by the Governor within 60 days after an authority is  
15 established. The Governor shall appoint members of the board  
16 to succeed those whose terms are expiring not less than 60  
17 days before the expiration of such terms. All members of the  
18 board must have expertise in one or more of the following  
19 areas: public finance, private finance, public accounting,  
20 commercial law, commercial real estate, real estate  
21 development, general contracting, architecture, and  
22 administration of professional sports team operations. A  
23 member of the board may not, at the time of appointment, hold  
24 an elected public office in the state.

25 (3) The organizational meeting of the board shall be  
26 held within 15 days after the appointment of the board.  
27 Appointed members of the board shall hold office for a term of  
28 4 years or until their successors take office, except that two  
29 of the initial members shall be appointed to terms of 3 years  
30 and two of the initial members shall be appointed to terms of  
31 2 years. If during a member's term of office a vacancy

1 occurs, the Governor shall fill the vacancy by appointment for  
2 the remainder of the term.

3 (4) The members of the board must be residents of the  
4 county in which the authority is located.

5 (5) Four members of the board shall constitute a  
6 quorum, and the affirmative vote of a majority of the members  
7 present and voting is necessary to take any official action.

8 (6) The members of the board shall serve without  
9 compensation but are entitled to reimbursement for travel and  
10 per diem expenses in accordance with section 112.061, Florida  
11 Statutes.

12 (7) The board shall at the time of organizing and  
13 thereafter annually elect a chair for a term of 1 year or  
14 until a successor is elected or the chair is removed, with or  
15 without cause, by the board. The chair shall preside at all  
16 meetings of the board. If the chair is absent or disqualified  
17 at any meeting, any member of the board may be designated  
18 chair pro-tempore for that meeting.

19 Section 6. Executive director.--The board shall  
20 appoint and fix the salary of an executive director to carry  
21 out the day-to-day activities of the authority and to  
22 administer the policies of the board.

23 Section 7. Chief financial officer and other officers;  
24 financial records; fiscal year.--

25 (1) The board shall appoint and fix the salary of a  
26 chief financial officer of the authority, who is responsible  
27 for the funds and finances of the authority. Funds may be  
28 disbursed only at the direction of the board signed by the  
29 persons designated by the board. The board may give the chief  
30 financial officer additional powers and duties.

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1           (2) The board or the executive director upon authority  
2 delegated by the board my appoint or employ other officers or  
3 employees of the authority and give them appropriate powers  
4 and duties.

5           (3) The financial records of the authority shall be  
6 audited by an independent certified public accountant at least  
7 once each year.

8           (4) The fiscal year of the authority begins October 1  
9 of each year and ends September 30 of the following year.

10           Section 8. Budgets.--On or before June 30 of each  
11 year, the executive director of the authority shall prepare a  
12 proposed budget, including an estimate of all revenues and  
13 anticipated expenditures, for the following fiscal year to be  
14 submitted to the board for approval or modification. The  
15 budget must be adopted before October 1 of each year.

16           Section 9. Powers and duties.--

17           (1) Each authority has, and the board may exercise,  
18 the power to:

19           (a) Finance, refinance, acquire, plan, design,  
20 develop, construct, own, lease, operate, maintain, manage,  
21 renovate, improve, and promote any project located within 4  
22 miles of its major cruise port consisting of one or more  
23 tourism-oriented facilities and other attractions and related  
24 amenities and infrastructure, including: professional sports  
25 facilities and recreational, commercial, cultural and  
26 educational facilities; civic, multi-purpose meeting  
27 facilities; and all forms of media communication,  
28 transmission, and production systems and facilities. However,  
29 during the 18-month period following establishment of an  
30 authority, the only project an authority may initiate is a  
31 professional sports facility and related amenities and

1 infrastructure, which initiation must be evidenced by adoption  
2 of a resolution setting forth the authority's commitment to  
3 initiate and promptly implement a professional sports facility  
4 project.

5 (b) Finance, refinance, acquire, plan, design,  
6 develop, construct, own, lease, operate, maintain, manage,  
7 renovate, improve, and promote any facilities and  
8 infrastructure within the authority's jurisdictional  
9 boundaries that are reasonably ancillary, incidental, or  
10 supporting of projects, including, but not limited to, roads,  
11 bridges, parking, and other transportation facilities.

12 (c) Provide for the protection of persons using the  
13 facilities of the authority by contracting to provide police  
14 protection, emergency medical services, and fire protection  
15 related to the facilities only with the prior consent of the  
16 county or municipality that provides these services at the  
17 time of the establishment of the authority.

18 (d) Sue and be sued in the name of the authority.

19 (e) Adopt and use a seal and authorize the use of a  
20 facsimile thereof.

21 (f) Make and execute contracts and other instruments  
22 necessary or convenient to the exercise of its powers.

23 (g) Employ staff and contract for the services of such  
24 independent consultants, professionals, managers, and  
25 operators as the board finds necessary and convenient.

26 (h) Maintain offices as the board finds necessary.

27 (i) Adopt procedures for the conduct of the  
28 authority's affairs, the conduct of its business, and the  
29 administration of this act.

30 (j) Accept gifts; apply for and use grants or loans of  
31 money or other property from the United States or any



1 department, agency, or unit of local government thereof, the  
2 state or any of its subdivisions or agencies, any other state  
3 or any subdivision or agency thereof, or any person for  
4 authority purposes and enter into any agreements required in  
5 connection therewith; and hold, use, and dispose of money or  
6 property for any authority purposes in accordance with the  
7 terms of the gift, grant, loan, or agreement relating thereto.

8 (k) Hold, control, and acquire by donation or  
9 purchase, and dispose of, any real or personal property, or  
10 any estate therein, within or outside the authority's  
11 boundaries, for any authority purpose.

12 (l) Lease as lessor or lessee to or from any person,  
13 public or private, any projects of the type that the authority  
14 is authorized to undertake and facilities or property of any  
15 nature for the use of the authority to carry out any of the  
16 purposes authorized by this act.

17 (m) Borrow money and issue bonds or other evidence of  
18 indebtedness as otherwise provided in this act.

19 (n) Fix, collect, and enforce fees, rates, or other  
20 user charges for any service, program, or facility provided by  
21 the authority.

22 (o) Cooperate and contract with other governmental  
23 entities and, under an interlocal agreement with such an  
24 entity, undertake any project authorized in this act or that  
25 the contracting governmental entity is authorized to undertake  
26 and that furthers an authority purpose.

27 (p) Fix and levy the cruise passenger surcharge,  
28 subject to the referendum requirements of this act.

29 (q) Call a referendum of the qualified electors of the  
30 county in which it is located for the purpose of voting on the  
31 cruise passenger surcharge.

1           (r) Invest moneys received by the authority as is  
2 permitted by law or as provided in any resolution adopted by  
3 the board.

4           (s) Procure necessary insurance or self-insure.

5           (t) Establish such independent entities or affiliated  
6 entities, whether in the form of a not-for-profit corporation  
7 or other legal entity, for such purposes as the board  
8 considers necessary or appropriate to carry out its projects  
9 or to administer projects or funds for the benefit of all or  
10 any portion of the county in which it is located.

11           (u) Make grants of authority funds to the county, any  
12 municipality, or any other governmental unit in which the  
13 authority is located if the grant furthers any purpose of the  
14 authority.

15           (v) Exercise all powers necessary, convenient,  
16 incidental, or proper in connection with any of the powers,  
17 duties, or purposes authorized by this act.

18           Section 10. Creation and levy of cruise passenger  
19 surcharge.--

20           (1) The board may levy a cruise passenger surcharge on  
21 each passenger embarking on a multi-day cruise initiating its  
22 voyage from a major cruise ship port within the eligible  
23 county in an amount not to exceed \$4 per day for each day of  
24 the cruise. The surcharge must be levied by resolution of the  
25 board and may take effect only upon approval by a majority of  
26 the qualified electors of the eligible county in which the  
27 authority is located voting in a referendum on the surcharge.

28           (2) The board shall place on the ballot a statement  
29 that includes a brief general description of the initial  
30 project to be funded by the surcharge, the maximum dollar  
31 amount of the surcharge to be levied, and, if not to be

1 perpetual, the number of years it will be levied, and this  
2 statement must be prescribed in the resolution calling for the  
3 referendum on the surcharge. The Supervisor of Elections for  
4 the eligible county in which the authority is located shall  
5 conduct the referendum and the executive director of the  
6 authority shall be the authority's election official. The  
7 referendum may not be conducted as a special election in which  
8 the sole issue before the electorate is the levy of the  
9 surcharge. The authority need pay only its pro rata share of  
10 election costs directly related to the referendum.

11 (3) If the referendum does not result in the approval  
12 of the surcharge, another referendum for approval of such a  
13 surcharge may not be held for at least 6 months.

14 (4) If limited by the approving referendum, the  
15 duration of the levy of an approved surcharge may be extended  
16 and the amount of the surcharge may be increased up to \$4 per  
17 day, only by approval of a majority of the qualified electors  
18 of the eligible county voting in a referendum on the extension  
19 or increase. Subject to the requirements of any covenants to  
20 bondholders or other creditors of the authority or to other  
21 contractual restrictions, the number of years of levy or the  
22 dollar amount of the surcharge may be decreased by resolution  
23 of the board, without referendum.

24 (5) The department shall collect the proceeds of the  
25 cruise passenger surcharge and distribute those proceeds to  
26 the authority monthly.

27 (6) The proceeds of the cruise passenger surcharge may  
28 be used by the authority for any lawful purpose of the  
29 authority, including payment of the cost of projects. For  
30 purposes of this act, the term "cost," when used with respect  
31 to a project, has the same meaning as set forth in section

1 190.003(7), Florida Statutes. Without in any way limiting this  
2 section the proceeds may be pledged to secure and service  
3 bonds and other indebtedness incurred by an authority.

4 (7) The cruise passenger surcharge shall take effect  
5 on the first day of the third month following notice from the  
6 authority to the department of referendum approval as provided  
7 in this act or such later date as may be established by  
8 resolution of the authority. The levying of the surcharge may  
9 terminate only on the last day of a calendar quarter.

10 (8) The board may suspend the collection of the  
11 surcharge before the time set for its expiration if all  
12 projects undertaken by the authority have been completed and  
13 all bonds and other liabilities of the authority that are  
14 payable, in whole or in part, from the surcharge, including  
15 any refunding bonds, have been paid in full or have been  
16 irrevocably defeased. The suspension may be effective only as  
17 of the last day of a calendar quarter. Once suspended, the  
18 board may resume the levy and collection of the surcharge if  
19 it finds that the surcharge is needed to carry out a project  
20 or other authority purpose.

21 Section 11. Cruise passenger surcharge limitations;  
22 administration and collection.--

23 (1) Any cruise passenger surcharge levied by the board  
24 must be imposed on each passenger embarking on a multi-day  
25 cruise initiating its voyage from a major cruise ship port  
26 within an eligible county. The cruise passenger surcharge is  
27 in addition to the total consideration paid for the privilege  
28 of embarking on the cruise and must be collected by the person  
29 receiving the consideration when that person receives payment  
30 of that consideration. The surcharge is in addition to, and  
31 not in lieu of, sales and use taxes or any other fees or

1 charges imposed by the state or any other governmental unit.

2 The surcharge is not subject to the taxes imposed under  
3 chapter 212, Florida Statutes.

4 (2) The person receiving any consideration that is  
5 subject to the cruise passenger surcharge shall collect,  
6 account for, and remit the surcharge to the department at the  
7 same time and in the same manner provided for persons who  
8 collect and remit taxes under chapter 212, Florida Statutes.  
9 The same duties and privileges imposed by chapter 212, Florida  
10 Statutes, upon dealers in tangible property respecting the  
11 collection and remission of taxes; the making of returns; the  
12 keeping of books, records, and accounts; and compliance with  
13 the rules of the department in the administration of that  
14 chapter apply to and are binding upon all persons who are  
15 subject to this section. The provisions of chapter 212,  
16 Florida Statutes, regarding the authority to audit and make  
17 assessments of interest and penalties on delinquent taxes and  
18 other administrative provisions of chapter 212, Florida  
19 Statutes, apply to the surcharge, except as expressly provided  
20 in this section. Each charge ticket, sales slip, invoice, or  
21 other tangible evidence of sale must show, on its face, the  
22 amount of the surcharge. The department may adopt rules to  
23 administer this section and may use its powers under chapter  
24 212, Florida Statutes, to discover the amount of surcharge to  
25 be paid and to enforce the payment thereof.

26 (3) The department shall keep records showing the  
27 amount of surcharges collected and records disclosing the  
28 amount of surcharges collected for and from each county in  
29 which the surcharge is authorized, including any interest or  
30 penalties on delinquent surcharges.

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1           (4) Collections received by the department from the  
2 surcharge, less costs of administration, must be paid and  
3 returned monthly to or at the order of the authority in the  
4 eligible county in which the surcharge was collected for use  
5 by the authority as provided in this act.

6           (5) The department shall adopt rules and prescribe,  
7 and publish such forms as are necessary to administer this  
8 section. The department shall establish audit procedures and  
9 assess for delinquent taxes.

10           (6) The estimated tax provisions contained in section  
11 212.11, Florida Statutes, do not apply to the administration  
12 of the surcharge. However, an authority may permit a quarterly  
13 or semiannual return and payment when the surcharges remitted  
14 by the person required to do so for the preceding quarter or  
15 semiannual period did not exceed the criteria established in  
16 section 212.11(1)(c), Florida Statutes.

17           (7) Any person taxable under this section who either  
18 by himself or herself or through his or her agents or  
19 employees fails to charge and collect the surcharge from the  
20 person responsible for paying it, in addition to being  
21 personally liable for the payment of the surcharge, commits a  
22 misdemeanor of the second degree, punishable as provided in  
23 section 775.082 or section 775.083, Florida Statutes.

24           (8) A person may not advertise or hold out to the  
25 public in any manner, directly or indirectly, that he or she  
26 will absorb any part of the surcharge; that he or she will  
27 relieve the person paying the surcharge of the payment of any  
28 part thereof; or that the surcharge will not be added to  
29 consideration for embarking on the multi-day cruise or, if  
30 added, will be refunded or refused, in whole or in part either  
31 directly or indirectly, by any method whatsoever. Any person

1 who willfully violates this paragraph commits a misdemeanor of  
2 the second degree, punishable as provided in section 775.082  
3 or section 775.083, Florida Statutes.

4 (9) A board initially levying a cruise passenger  
5 surcharge or modifying or suspending an existing levy of the  
6 surcharge shall notify the department within 10 days after the  
7 referendum approval is obtained or the resolution modifying or  
8 suspending an existing levy is adopted. Notification of  
9 modification or suspension must occur at least 30 days before  
10 the modification or suspension becomes effective.

11 Section 12. Bonds.--

12 (1) AUTHORIZATION AND FORM OF BONDS.--

13 (a) The authority may issue and sell bonds for any  
14 purpose for which the authority has the power to expend money,  
15 including, without limitation, the power to obtain working  
16 capital loans to finance the costs of any project and to  
17 refund any bonds or other indebtedness at the time outstanding  
18 at or before maturity. Bonds may be sold by public or  
19 negotiated sale after advertisement, if any, as the board  
20 considers advisable. Bonds may be authorized by resolution of  
21 the board.

22 (b) Bonds of the authority may reflect and evidence  
23 any form of financing structure that may become marketable  
24 from time to time, including, but not limited to, taxable or  
25 tax-exempt bonds; bonds that bear current interest, whether  
26 fixed or variable; bonds issued at an original issue discount  
27 or premium; capital appreciation bonds; bonds that are  
28 convertible, whether or not at the option of the holder, into  
29 a form of bonds differing from that in which they were  
30 originally issued; bonds that allow the holder to tender the  
31 bonds to the authority or its agent; bonds that are issued

1 with separate call-option rights that may be sold by the  
2 authority at the time of issuance of the bonds or thereafter;  
3 and bonds of any type issued in connection with interest-rate  
4 swaps or other derivative products. Bonds may be sold in  
5 blocks or installments at different times, or an entire issue  
6 or series may be sold at the same time.

7 (c) The board may, by resolution, fix the aggregate  
8 maximum amount of bonds to be issued; the purpose or purposes  
9 for which the moneys derived therefrom may be expended,  
10 including, but not limited to, payment of costs of one or more  
11 projects; the rates of interest; the denominations of the  
12 bonds; whether or not the bonds are to be issued in one or  
13 more series; the dates of maturity, which may not exceed 40  
14 years from the respective date of issuance; the medium of  
15 payment; the places within or outside the state where payment  
16 must be made; registration privileges; redemption terms and  
17 privileges, whether with or without premium; the manner of  
18 execution; the form of the bonds, including any interest  
19 coupons to be attached thereto; the manner of execution of  
20 bonds and coupons; and any other terms, covenants, and  
21 conditions thereof and the establishment of revenue or other  
22 funds. The authorizing resolution may further provide for the  
23 contracts authorized by section 159.825(1)(f) and (g), Florida  
24 Statutes, regardless of the tax treatment of the bonds being  
25 authorized. The authorizing resolution may further provide for  
26 an electronic-book-entry system of registration, or for  
27 certificated bonds. The seal of the authority may be affixed,  
28 lithographed, engraved, or otherwise reproduced in facsimile  
29 on the bonds.

30 (d) Any issue of bonds may be secured by a trust  
31 agreement by and between the authority and corporate trustees,



1 which may be any trust company or bank having the powers of a  
2 trust company within or outside the state. Any provisions  
3 regarding the details or terms of any bonds that are required  
4 or permitted to be set forth in a resolution of the board may  
5 be set forth in a trust agreement with the same effect as if  
6 the provisions were set forth in a resolution of the board.  
7 The resolution authorizing the issuance of the bonds or the  
8 trust agreement may pledge any legally available revenues of  
9 the authority, including, without limitation, the proceeds of  
10 the cruise passenger surcharge and rental payments received by  
11 the authority, and may contain such provisions for protecting  
12 and enforcing the rights and remedies of the bondholders as  
13 the board approves, including, without limitation, covenants  
14 authorized under subsection (4) and covenants setting forth  
15 the duties of the authority in relation to the acquisition,  
16 construction, reconstruction, improvement, maintenance,  
17 repair, operation, and insurance of any projects; the fixing  
18 and revising of the rates, fees, and charges; and the custody,  
19 safeguarding, and application of all moneys, and may contain  
20 provisions for the employment of engineers, accountants and  
21 other consultants in connection with such acquisition,  
22 construction, reconstruction, improvement, maintenance,  
23 repair, or operation. It is lawful for any bank or trust  
24 company within or outside the state to act as a depository of  
25 the proceeds of bonds or of revenues and to furnish such  
26 indemnifying bonds or to pledge such securities as are  
27 required by the authority. The resolution or trust agreement  
28 may set forth the rights and remedies of the bondholders and  
29 of the trustee, if any, and may restrict the individual rights  
30 of action by bondholders. The board may provide for the  
31 payment of proceeds of the sale of the bonds and the revenues

1 of any project to any officer, board, or depository that it  
2 designates for the custody thereof and may provide for the  
3 method of disbursement thereof with such safeguards and  
4 restrictions as it establishes. All expenses incurred in  
5 carrying out the provisions of the resolution or trust  
6 agreement may be treated as part of the cost of a project to  
7 which the trust agreement pertains or as part of the cost of  
8 the operation of the project.

9 (e) Bonds may be delivered by the authority as payment  
10 of the purchase price of any project or part thereof, or a  
11 combination of projects or parts thereof, or as the purchase  
12 price or exchange for any property, real, personal, or mixed,  
13 including franchises or services rendered by any contractor,  
14 engineer, or other person, all at one time or in blocks from  
15 time to time, in such manner and upon such terms as the board  
16 determines.

17 (f) Pending the preparation of definitive bonds, the  
18 board may issue interim certificates or receipts or temporary  
19 notes or bonds, in a form and with such provisions as the  
20 board establishes, exchangeable for definitive bonds when the  
21 bonds have been executed and are available for delivery. The  
22 board may also provide for the replacement of any bonds that  
23 become mutilated, lost, or destroyed.

24 (g) All bonds issued on behalf of the authority must  
25 state on the face thereof that they are payable, both as to  
26 principal and interest, solely from assets of the authority  
27 pledged therefor and do not constitute an obligation, either  
28 general or special, of the state or of any local government.

29 (2) NEGOTIABILITY OF BONDS.--Any bond issued under  
30 this act or any temporary bond, in the absence of an express  
31 recital on the face thereof that it is nonnegotiable, is fully

1 negotiable and constitutes a negotiable instrument within the  
2 meaning and for all proposes of the law merchant and the laws  
3 of the state.

4 (3) BONDS AS LEGAL INVESTMENT OR SECURITY.--

5 (a) Notwithstanding any other law to the contrary, all  
6 bonds issued under this act constitute legal investments for  
7 savings banks, banks, trust companies, insurance companies,  
8 executors, administrators, trustees, guardians, and other  
9 fiduciaries and for any board, body, agency, instrumentality,  
10 county, municipality, or other political subdivision of the  
11 state.

12 (b) Any bonds issued by the authority are  
13 incontestable in the hands of bona fide purchasers or holders  
14 for value and are not invalid because of any irregularity or  
15 defect in the proceedings for the issue and sale thereof.

16 (4) COVENANTS.--Any resolution authorizing the  
17 issuance of bonds may contain any covenants the board finds  
18 advisable. All the covenants constitute valid and legally  
19 binding and enforceable contracts between the authority and  
20 the bondholders, regardless of the time of issuance thereof.

21 (5) ACT FURNISHES FULL AUTHORITY FOR ISSUANCE OF  
22 BONDS.--This act constitutes full authority for the issuance  
23 of bonds and the exercise of the powers of the authority. No  
24 procedures or proceedings, publications, notices, consents,  
25 approvals, orders, acts, or things by the board, or any board,  
26 officers, commission, department, agency, or instrumentality  
27 of the authority, other than those required by this act, are  
28 required to perform anything under this act, except that the  
29 issuance or sale of bonds under this act must comply with the  
30 general-law requirements applicable to the issuance or sale of  
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1 bonds by the authority, including, but not limited to, section  
2 189.4085, Florida Statutes.

3 (6) PLEDGE BY THE STATE TO THE BONDHOLDERS OF THE  
4 AUTHORITY.--The state pledges to the holders of any bonds  
5 issued under this act that it will not limit or alter the  
6 rights of the authority to own, acquire, construct, or  
7 reconstruct, improve, maintain, operate, or furnish the  
8 projects or to levy and collect the cruise passenger  
9 surcharge, rentals, rates, fees, and other charges provided  
10 for in this act and to fulfill the terms of any agreement made  
11 with the holders of the bonds or other obligations and that it  
12 will not in any way impair the rights or remedies of the  
13 holders.

14 Section 13. Tax exemption.--The bonds and other  
15 obligations issued under this act, their transfer, and the  
16 income therefrom, including any profit made on the sale  
17 thereof, and all notes, mortgages, security agreements,  
18 letters of credit, or other instruments that arise from or are  
19 given to secure the repayment of bonds or other obligations  
20 issued under this act, are at all times free from taxation by  
21 the state or any unit of local government, political  
22 subdivision, or other instrumentality of the state. For  
23 purposes of excise taxes on documents, the provisions of  
24 section 201.24, Florida Statutes, apply. The exemption  
25 granted by this section does not apply to any tax imposed by  
26 chapter 220, Florida Statutes, on interest, income, or profits  
27 on debt obligations owned by corporations.

28 Section 14. Contracts.--Contracts for the construction  
29 of projects and for any other purpose of the authority may be  
30 awarded by the authority in a manner that will best promote  
31 free and open competition, including advertisement for

1 competitive bids; however, if the authority determines that  
2 the purposes of this act will be more effectively served  
3 thereby, the authority may award or cause to be awarded  
4 contracts for the construction of any project, including  
5 design-build contracts, or any part thereof, or for any other  
6 purpose of the authority upon a negotiated basis as determined  
7 by the authority. Each contractor doing business with the  
8 authority and required to be licensed by the state or local  
9 general-purpose governments must maintain the license during  
10 the term of the contract with the authority. The authority  
11 may prescribe bid security requirements and other procedures  
12 in connection with the award of contracts which protect the  
13 public interest. Section 287.055, Florida Statutes, does not  
14 apply to the selection of professional architectural,  
15 engineering, landscape architectural, or land surveying  
16 services by the authority or to the procurement of  
17 design-build contracts. The authority may, and in the case of  
18 a new professional sports franchise must, by written contract  
19 engage the services of the lessee, sublessee, or purchaser, or  
20 prospective lessee, sublessee or purchaser, of any project in  
21 the construction of the project and may, and in the case of a  
22 new professional sports franchise must, provide in the  
23 contract that the lessee, sublessee, purchaser, or prospective  
24 lessee, sublessee or purchaser, may act as an agent of, or an  
25 independent contractor for, the authority for the performance  
26 of the functions described therein, subject to the conditions  
27 and requirements prescribed in the contract, including  
28 functions such as the acquisition of the site and other real  
29 property for the project; the preparation of plans,  
30 specifications, financing and contract documents; the award of  
31 construction and other contracts upon a competitive or

1 negotiated basis; the construction of the project, or any part  
2 thereof, directly by the lessee, purchaser, or prospective  
3 lessee or purchaser; the inspection and supervision of  
4 construction; the employment of engineers, architects,  
5 builders, and other contractors; and the provision of money to  
6 pay the cost thereof pending reimbursement by the authority.  
7 Any such contract may, and in the case of a new professional  
8 sports franchise must, allow the authority to make advances to  
9 or reimburse the lessee, sublessee, or purchaser, or  
10 prospective lessee, sublessee, or purchaser for its costs  
11 incurred in the performance of those functions, and must set  
12 forth the supporting documents required to be submitted to the  
13 authority and the reviews, examinations, and audits that are  
14 required in connection therewith to assure compliance with the  
15 contract.

16       Section 15. Sale or lease of property.--The authority  
17 may sell or lease property of the authority in a manner that  
18 will best promote free and open competition, including  
19 advertisement for competitive bids; however, if the authority  
20 determines that the purposes of this act will be more  
21 effectively served, the authority may sell or lease property  
22 of the authority upon a negotiated basis or for no or nominal  
23 consideration. Notwithstanding any other law, the authority  
24 may sell or lease property of the authority in a transaction  
25 in which the authority leases the property back from its  
26 purchaser or lessee. To facilitate the development of a  
27 project by an authority, any governmental entity or other unit  
28 of local government may sell or lease its property to an  
29 authority upon a negotiated basis, without competitive bid,  
30 and for no or nominal consideration, and an authority may

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1 resell or sublease the property to a professional sports  
2 franchise in the same manner.

3 Section 16. Damages arising out of tort.--Any suit or  
4 action brought or maintained against the authority for damages  
5 arising out of tort are subject to the limitations provided in  
6 section 768.28, Florida Statutes, and any claim must be  
7 presented in writing to the board.

8 Section 17. Dissolution.--

9 (1) Once an authority has been established in an  
10 eligible county, its existence is not affected by any  
11 subsequent reduction in population or cruise passenger  
12 traffic. Subject to subsection (2), an authority may be  
13 dissolved only by unanimous resolution of the board and  
14 approval of the resolution by the Governor or in the manner  
15 provided in chapter 189, Florida Statutes.

16 (2) A dissolution may not become effective unless  
17 arrangements have been made for the full assumption of all  
18 governmental services then being provided by the authority,  
19 and for the transfer and allocation of revenue, property, and  
20 indebtedness of the authority. If any bonds or other  
21 obligations of the authority are outstanding, any act of the  
22 Legislature dissolving the authority shall set forth the  
23 proposed arrangements under which holders of the outstanding  
24 obligations will be immediately paid or will continue to be  
25 paid, which arrangements must be consistent with the terms of  
26 the outstanding obligations. Any resolution of the board or  
27 legislative act dissolving the authority must specify the  
28 effective date of the dissolution. The consent of the county  
29 in which the authority is located is not required to dissolve  
30 an authority.

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1           Section 18. Severability.--If any provision of this  
2 act or the application thereof to any person or circumstance  
3 is held invalid, the invalidity does not affect other  
4 provisions or applications of the act which can be given  
5 effect without the invalid provision or application, and to  
6 this end the provisions of this act are declared severable.

7           Section 19. Liberal construction.--This act shall be  
8 liberally construed to effectively carry out its purposes.

9           Section 20. This act shall take effect upon becoming a  
10 law.

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SENATE SUMMARY

Creates the "Port Area Improvement Authority Act" for counties with major cruise ship ports. Authorizes the levy of a cruise passenger surcharge and the issuance of bonds to finance professional sports facilities or other tourist attractions.